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Before the  
Federal Communications Commission  
Washington, DC 20554

JUL 17 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Section 73.606(b),  
Table of Allotments,  
TV Broadcast Stations.  
(Bay City, Michigan)

MM Docket No. 00-\_\_\_\_\_  
RM-\_\_\_\_\_

To: Chief, Mass Media Bureau

**PETITION FOR RULE MAKING**

Vista Communications, Inc. ("Vista") and Pelican Broadcasting Company, Inc. ("Pelican"), acting pursuant to Section 1.401 of the Commission's rules and the Mass Media Bureau's Public Notice *Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations*, DA 99-2605 (November 22, 1999) (hereafter "*Public Notice*"), hereby petition for rulemaking to amend the Table of Allotments for NTSC TV Broadcast Stations to substitute Channel 46+ for Channel 61+ at Bay City, Michigan. In support of this Petition, Vista and Pelican state the following:

1. Vista filed an application for a construction permit for a new TV broadcast station on Channel 61 at Bay City, Michigan (File No. BPCT-960710KZ). Pelican filed a mutually exclusive application for the same channel (File No. BPCT-960723LC). As of this same day, Vista and Pelican are filing a request for Commission approval of a Settlement Agreement to resolve the conflict between their applications by the dismissal of Pelican's application and the grant of Vista's application.
2. The *Public Notice* opened "a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their

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requests, if possible, to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69.” *Public Notice* at 1. More specifically, the *Public Notice* opened a window for the filing of “petitions for rule making seeking a new channel below channel 60 for those applicants with pending applications for new full-service NTSC television stations on channels 60-69.” *Id.* Both Vista and Pelican come within this eligibility category because they filed applications for new full-service NTSC television stations on Channel 61 at Bay City, Michigan.

3. The appended Engineering Statement provides documentation to support this request to substitute Channel 46+ for Channel 61+ at Bay City, Michigan. The Engineering Statement references dismissal of the only application for Channel 46 at Port Huron, Michigan. Attached is a photocopy of the “Motion to Dismiss” the Port Huron application. Upon the amendment of the TV Table of Allotments, Vista will amend its pending application to specify operation on Channel 46+.

4. The public interest would obviously served by a grant of this petition because it gives effect to the *Public Notice*, facilitates the clearing of the Channel 60-69 band for new wireless communications uses, and expedites the inauguration of a new television service at Bay City, Michigan.

WHEREFORE, in view of the foregoing, Vista and Pelican respectfully request that the Bureau issue a Notice of Proposed Rule Making proposing to amend Section 73.606 of the Commission’s rules, the NTSC TV Table of Allotments, and thereafter adopt and release a Report and Order amending the NTSC TV Table of Allotments as follows:

Community	Present	Proposed
Bay City, Michigan	5-, 61+	5-, 46+
Port Huron, Michigan	46+	_____

Respectfully submitted,

PEPPER & CORAZZINI, LLP  
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Suite 200  
Washington, DC 20006  
(202) 296-0600  
Attorneys for Vista Communications, Inc.

By: Vincent A. Pepper  
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(202) 682-3500  
Attorneys for Pelican Broadcasting  
Company, Inc.

By: Bruce A. Eisen  
Bruce A. Eisen

Dated: July 17, 2000

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In re Application of	)	
	)	
LARRY T. BOULIER, JR.	)	File No. BPCT-950620KH
	)	
For a Construction Permit to Build a	)	
New Television Station On Channel 46	)	
in Port Huron, Michigan	)	

To: Chief, Video Services Division

**MOTION TO DISMISS**

Larry T. Boulrier, Jr., the applicant for the above-referenced construction permit,  
hereby moves to dismiss the above-referenced application with prejudice.

Respectfully submitted,

LARRY T. BOULIER, JR.  
2235 Woodstock Drive  
Port Huron, Michigan 48060

By: *Larry T Boulrier Jr*

Dated: July 14, 2000

LIEBERMAN & WALISKO  
CONSULTING TELECOMMUNICATIONS ENGINEERS  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

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Bay City, MI

E N G I N E E R I N G   S T A T E M E N T

This engineering statement is written in support of a Petition for Rulemaking filed by Vista Communications, Inc. seeking to modify the table of television allotments and substituting channel 46+ for channel 61+ at Bay City, Michigan and to delete channel 46+ from Port Huron, Michigan.

On November 22, 1999, a Public Notice released by the Mass Media Bureau of the FCC announced a filing window for applicants with pending applications in channels 60 to 69 to modify those applications to specify a new channel. This was done to accommodate the requirements of the Report and Order found in ET Docket 97-157, released January 6, 1998 which recaptures these channels for use by other services.

The instant rule making petition seeks to reallocate channel 46+ presently assigned to Port Huron, Michigan to Bay City, Michigan in place of channel 61+. This request is predicated upon the withdrawal of the pending application (BPCT-950620KH) for Port Huron, Michigan.

NTSC channel 46+ may be substituted and allocated to Bay City, Michigan at coordinates North Latitude 43° 26' 07", West Longitude 84° 26' 12". This site complies with the requirements of 47 C.F.R. Section §73.685(a) (city of license), 47 C.F.R. Section §73.623(c) (channel separation criteria for DTV assignments), and 47 C.F.R. Section §73.610 (NTSC channel separation criteria).

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Bay City, MI

ENGINEERING STATEMENT (Cont'd)

UHF channel 46+ operating at the instant proposed coordinates would employ a non directional antenna at 759 meters AMSL, 548 meters AAT and have a radiated power of 5000 kW.

In support, the following exhibits are submitted:

Figure 1 - a separation study from the instant proposed site to other NTSC and DTV assignments with which there could be a possible conflict. It should be noted that under the instant proposal, channel 46+ at Port Huron, MI moves to Bay City; the allotment of channel 61+ at Bay City is deleted as outlined above; and WUPW-DT is dealt with in Figure 2.

Figure 2A - a study showing the present area and population interference to WUPW, Toledo, OH. Figure 2B is a study showing the inclusion of the instant proposed facility in the makeup of potential inerferors to WUPW. As demonstrated in these exhibits, the instant proposed facility will not cause any prohibited interference to a DTV or NTSC facility and is therefore in full compliance with all FCC rules.

On the basis of the aforestated information and exhibits, it is proposed to amend 47 C.F.R. Section §73.606(b) to read as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Bay City, Michigan	5, 61+	5, 46+
Port Huron, Michigan	46+	-

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Bay City, Michigan

Figure 1

**TV CHANNEL SPACING STUDY**

Job title: BAY CITY, MICHIGAN

Proposed latitude: N 43 26 7.00

Proposed longitude: W 84 26 12.00

Proposed zone: 1

A \* next to a distance result indicates the proposed location is inside the exclusion range for a DTV adjacent channel

Proposed channel: 46

CH	Call	Record	City	ST	Z	Status	Bear.	Dist.	Reqd. Dist.	Result
46+	ALLOTM	3747	PORT HURON	MI	1		106.9	171.3	248.6	-77.3 <sup>1</sup>
46+	950620KH	3751	PORT HURON	MI	1	APP	103.7	164.0	248.6	-84.6 <sup>1</sup>
46	WUPW	4047	TOLEDO	OH	1	APP	157.3	213.8	217.3	-3.5 <sup>2</sup>
46	WUPW	4058	TOLEDO	OH	0		157.3	213.8	217.3	-3.5 <sup>2</sup>
61+	ALLOTM	4112	BAY CITY	MI	2		66.5	47.8	119.9	-72.1 <sup>3</sup>
31+	WPXD	4414	ANN ARBOR	MI	1	LIC	165.7	121.7	119.9	1.8
31+	WPXD	4415	ANN ARBOR	MI	1	CP	165.7	121.7	119.9	1.8
38	WSYM-TV	4427	LANSING	MI	1	APP	189.3	108.9	80.5	28.4
47o	WSYM-TV	4428	LANSING	MI	1	LIC	189.3	108.9	87.7	21.2
53-	WLAJ	4430	LANSING	MI	1	LIC	183.6	113.0	95.7	17.3
53-	WLAJ	4431	LANSING	MI	1	CP	183.6	113.0	95.7	17.3
38	WSYM-TV	4440	LANSING	MI	0		189.3	108.9	80.5	28.4
48	WAQP	4493	SAGINAW	MI	1	APP	127.4	39.1	80.5	-41.4 <sup>4</sup>
48	WAQP	4494	SAGINAW	MI	1	APP	127.4	39.1	80.5	-41.4 <sup>4</sup>
49-	WAQP	4495	SAGINAW	MI	1	LIC	127.4	39.1	31.4	7.7
48	WAQP	4500	SAGINAW	MI	0	CPAPP	127.4	39.1	80.5	-41.4 <sup>4</sup>
44	WZPX	4828	BATTLE CREEK	MI	1	APP	211.5	98.4	80.5	17.9
45	WLLA	4848	KALAMAZOO	MI	1	APP	221.0	127.7	106.0	21.7
45	WLLA	4849	SANDUSKY	OH	1	APP	221.0	127.7	106.0	21.7
44	WZPX	4859	BATTLE CREEK	MI	0	CPAPP	211.5	98.4	80.5	17.9
45	WLLA	4865	KALAMAZOO	MI	0		221.0	127.7	106.0	21.7
47	WFQX-TV	4882	CADILLAC	MI	2	APP	317.7	107.8	106.0	1.8
47	WFQX-TV	4907	CADILLAC	MI	0		317.7	107.8	106.0	1.8
46o	WHME-TV	5198	SOUTH BEND	IN	1	LIC	215.2	248.7	248.6	0.1

1: This channel moves to Bay City, Michigan

2: See Figures 2-A and 2-B. No interference caused as a result of the instant channel proposal.

3: This channel dropped in favor of channel 46+

4: Second adjacent NTSC to DTV shortspacing to be disregarded per FCC OET Bulletin 69.

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Bay City, Michigan

Figure 2-A

**DTV CHANNEL STUDY**

Job title: BAY CITY, MICHIGAN  
Subject station call: WUPW-DT  
Channel: 46  
Latitude: N 41 39 22.01  
Longitude: W 83 26 41.01  
Antenna elevation(AMSL): 538.0 meters  
Maximum ERP: 110.0000 kW  
Proposed zone: 1  
Calculation method: Direct-to-grid  
Centroid method: population-biased

Interfering stations considered:

Call	Channel	Type	Status	Distance(km)	Bearing(degs.)
WNEO	46	DT		228.0	110.7
WWHO	46	DT	APP	231.3	172.9
WDIV-TV	45	DT	LIC	93.9	12.1
WKBD	50	TV	CP	92.6	6.7
WSYM-TV	47	TV	LIC	134.5	312.6
WTHR	46	DT	APP	300.3	231.1
WHME-TV	46	TV	LIC	226.4	269.2

Service without interference:

Area (sq. km): 21610.6  
Population (persons): 2362352

Service with interference:

Area (sq. km): 21586.5  
Population (persons): 2331457

FCC kwx=3 Interpretation:

Area of unserved cells declared served (sq. km.): 0.0  
Population of unserved cells declared served: 0



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Bay City, Michigan

Figure 2-A

**DTV CHANNEL STUDY (Cont'd)**

Noise-limited contour (41.7 dBuV/m):

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Area inside noise-limited contour (sq. km): 22161.0

Population inside noise-limited contour: 2747041

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Bay City, Michigan

Figure 2-B

**DTV CHANNEL STUDY**

Job title: BAY CITY, MICHIGAN  
Subject station call: WUPW-DT  
Channel: 46  
Latitude: N 41 39 22.01  
Longitude: W 83 26 41.01  
Antenna elevation(AMSL): 538.0 meters  
Maximum ERP: 110.0000 kW  
Proposed zone: 1  
Calculation method: Direct-to-grid  
Centroid method: population-biased

Interfering stations considered:

Call	Channel	Type	Status	Distance (km)	Bearing (degs.)
BAY CITY	46	TV		213.8	338.0
WNEO	46	DT		228.0	110.7
WWHO	46	DT	APP	231.3	172.9
WDIV-TV	45	DT	LIC	93.9	12.1
WKBD	50	TV	CP	92.6	6.7
WSYM-TV	47	TV	LIC	134.5	312.6
WTHR	46	DT	APP	300.3	231.1
WHME-TV	46	TV	LIC	226.4	269.2

Service without interference:

Area (sq. km): 21610.6  
Population (persons): 2362352

Service with interference:

Area (sq. km): 21586.5  
Population (persons): 2331457

FCC kwx=3 Interpretation:

Area of unserved cells declared served (sq. km.): 0.0  
Population of unserved cells declared served: 0

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Bay City, Michigan

Figure 2-B

**DTV CHANNEL STUDY (Cont'd)**

Noise-limited contour (41.7 dBuV/m):

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Area inside noise-limited contour (sq. km): 22161.0  
Population inside noise-limited contour: 2747041

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**DECLARATION**

**MELVYN LIEBERMAN,** declares and certifies as follows:

That he is associated with the firm of **LIEBERMAN & WALISKO, Inc.;**

That this firm has been retained by **Vista Communications, Inc.** to prepare this Engineering Statement;

That his qualifications are a matter of record with the Federal Communications Commission;

That he has either prepared or directly supervised the preparation of all technical material contained in this engineering statement and that the facts stated in this report are true of his knowledge and belief except as to such statements as are herein stated to be on information and belief and as to such statements, he believes them to be true.

7/10/00  
Date

Melvyn Lieberman  
Melvyn Lieberman